



**THOMAS L. GARTHWAITE, M.D.**  
Director and Chief Medical Officer

**FRED LEAF**  
Chief Operating Officer

COUNTY OF LOS ANGELES  
DEPARTMENT OF HEALTH SERVICES  
313 N. Figueroa, Los Angeles, CA 90012  
(213) 240-8101

**BOARD OF SUPERVISORS**

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First District

**Yvonne Brathwaite Burke**  
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Fifth District

June 5, 2003

The Honorable Board of Supervisors  
County of Los Angeles  
383 Kenneth Hahn Hall of Administration  
500 West Temple Street  
Los Angeles, California 90012

Dear Supervisors:

**THE COMMUNITY HEALTH PLAN - L.A. CARE HEALTH PLAN**  
(All Districts) (3 Votes)

**IT IS RECOMMENDED THAT YOUR BOARD:**

1. Approve and instruct the Director of Health Services, or his designee, to execute Amendment No. 1 to the PASC-SEIU Homecare Worker Health Care Plan ("Health Care Plan") - Administrative Support Services Agreement No. H-213337, substantially similar to Exhibit I, between the County and L.A. Care Health Plan ("L.A. Care"), to extend the provision of such services and add standard County provisions effective July 1, 2003 and continue on a month-to-month basis for a period of not more than twelve months, which can be terminated upon ten (10) calendar days prior written notice, through June 30, 2004 up to an estimated maximum obligation of \$978,096.
2. Find that special circumstances exist to justify a waiver of the jury service program requirement for subcontractors providing services for L.A. Care under the Administrative Support Services Agreement No. H-213337.
3. Approve and instruct the Director of Health Services, or his designee, to execute Amendment No. 1 to the Medi-Cal Services Agreement No. H-207980, substantially similar to Exhibit II, between the Department of Health Services' Community Health Plan ("CHP") and L.A. Care to extend the CHP's access to L.A. Care's professional temporary employees subcontracts for claims adjudication, utilization review, and member services effective July 1, 2003 and continue on a month-to-month basis for a period of not more than twelve months, which can be terminated upon ten (10) calendar days prior written notice, through June 30, 2004, up to an estimated maximum obligation of approximately \$133,333.

**PURPOSE/JUSTIFICATION OF THE RECOMMENDED ACTIONS:**

The Department of Health Services ("DHS" or "Department") is recommending the above actions to:

1. Ensure that the CHP has adequate administrative support to operate a health plan as required by the Knox-Keene Act, and to incorporate appropriate County-required contract provisions, until such time as the Department is able to outsource CHP administrative functions to L.A. Care for all product lines of business (Medi-Cal Managed Care Program/County Temporary Employee Program, Healthy Families Program, and the Health Care Plan) as indicated in its DHS System Redesign provided to the Board in June, 2002. In the event that the Department is unable to negotiate such an agreement with L.A. Care, it will either conduct an RFP to select another agency, hire additional full-time employees, or consider a combination thereof.
2. Obtain a waiver of the Contractor Employee Jury Service Program Ordinance, Chapter 2.203 of the County Code, for subcontractors of L.A. Care providing services under the Administrative Support Services Agreement No. H-213337. The waiver would only apply to the subcontractors of L.A. Care and not to L.A. Care itself. L.A. Care contends that the obligation to administer, negotiate, impose, and enforce the ordinance with respect to all subcontractors would be infeasible.

Existing County policy and procedures require timely submission of contracts for Board approval; however, the agreement amendments were not scheduled for placement on the Board's agenda for three weeks prior to the July 1, 2004 effective date due to negotiations with L.A. Care.

#### FISCAL IMPACT/FINANCING:

Funding for the Health Care Plan is provided by the Personal Assistance Services Council ("PASC"), through Agreement No. 72426-2 between County and PASC (whereby the Department of Public Social Services is the payor of record for PASC) on a per member per month basis, at a capitated rate for each Health Care Plan beneficiary enrolled in CHP. The total estimated maximum County obligation for Agreement No. H-213337-1 is \$978,096, 100% offset by revenue retained by the CHP to offset its administrative costs from the capitation payments.

The costs for CHP's continued access to L.A. Care's professional temporary employees subcontract under Agreement No. H-207980-1 will be at rates agreed upon by L.A. Care and its current subcontractor to be provided to CHP and subject to its validation, 100% offset by administrative overhead revenue retained by CHP from funding received from L.A. Care under such agreement. The estimated costs for this agreement is based on historical experience and projected to range from \$87,333 to \$133,333, due to uncertainties in workload requirements related to enrollment levels and staffing as the Department continues to work with outsourcing administrative functions with CHP.

#### FACTS AND PROVISIONS/LEGAL REQUIREMENTS:

The CHP, a full-service Knox-Keene licensed and federally qualified Health Maintenance Organization ("HMO"), is the County's publicly-operated HMO administered by the Department's Office of Managed Care. CHP provides health care services funded by L.A. Care for Medi-Cal beneficiaries under the State's Two-Plan Managed Care Program, County for the County Temporary Employee Program, Managed Risk Medical Insurance Board for Healthy Families Program subscribers, and PASC for Health Care Plan services provided to eligible In-Home Supportive Services Workers. CHP also retains a portion of such capitation to offset its administrative overhead.

On January 8, 2002, the Board approved Agreement No. H-213337 with L.A. Care to provide administrative support services for the Health Care Plan operated by CHP through June 30, 2003. The

Department is recommending an extension of this agreement on a month to month basis not to exceed twelve (12) months, through June 30, 2004 or upon implementation of an outsourcing agreement with L.A. Care to provide administrative support services for all CHP product lines of business, whichever occurs sooner.

On February 11, 1997, the Board approved the Medi-Cal Services Agreement with L.A. Care to fund CHP's Medi-Cal Managed Care Program. On December 17, 2002, the Board approved Agreement No. H-207980 that extended such funding through December 31, 2004, and enabled CHP to purchase claims adjudication, utilization review, and member services through L.A. Care's professional temporary services employees subcontract through June 30, 2003. The Department is recommending the amendment of this agreement to continue CHP's access to such subcontract on a month to month basis not to exceed twelve months through June 30, 2004 or upon implementation of an agreement with L.A. Care to provide administrative support services for all CHP product lines of business, whichever occurs sooner.

The jury service ordinance requires County contractors and subcontractors to provide their full-time California employees with at least 5 days of jury service benefits. L.A. Care contends that such requirement creates an unacceptable obligation to the extent it must be imposed on all subcontractors. Without the Administrative Support Services Agreement in place, CHP is in violation of the Knox-Keene Act licensing requirements in that CHP would not have sufficient capacity to administer the Health Care Plan for enrolled beneficiaries and its provider network. Such violation could lead to de-licensure by DMHC of the Health Care Plan for the areas served by both DHS facilities and contractors, resulting in subsequent loss of CHP membership and capitation monies.

The amendments requested by the Department for both agreements with L.A. Care will ensure that CHP has adequate administrative support to operate a health plan as required by the Knox-Keene Act.

Attachment A provides additional information.

Exhibits I and II have been approved as to form by County Counsel.

#### CONTRACTING PROCESS:

On January 8, 2002, the Board approved the sole source Administrative Support Services Agreement with L.A. Care due to the short timeframe mandated for implementing the program by the Board of Supervisors when approving the Health Care Plan on March 27, 2001. On December 27, 2002, the Board approved the Medi-Cal Agreement with L.A. Care to provide funding for CHP's Medi-Cal Managed Care Program and to enable CHP to purchase claims adjudication, utilization review, and member services through L.A. Care's temporary services subcontract.

The amendment to both agreements will allow continuation of administrative support services provided under each agreement for the interim period prior to the transfer of CHP's administrative functions for all product lines of business to L.A. Care, which is more cost-effective than hiring additional full-time employees or initiating a Request for Proposal process.

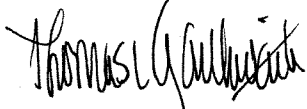
#### IMPACT ON CURRENT SERVICES (OR PROJECTS):

Approval of this action will enable the CHP to continue to comply with the State Department of Managed Health Care's Knox-Keene regulations until the transfer of CHP's administrative functions to L.A. Care.

The Honorable Board of Supervisors  
June 5, 2003  
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When approved, this Department requires four signed copies of the Board's action.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Thomas L. Garthwaite".

Thomas L. Garthwaite, M.D.  
Director and Chief Medical Officer

TLG:po

Attachments (3)

c: Chief Administrative Officer  
County Counsel  
Executive Officer, Board of Supervisors

BLCD2380.PO.wpd

**SUMMARY OF COMMUNITY HEALTH PLAN (CHP) SERVICE AGREEMENTS****1. Type of Service:**

Community Health Plan ("CHP") provides or arranges for health services to individuals enrolled in CHP's Medi-Cal Managed Care Program/County Temporary Employee Program, Healthy Families Program, or the PASC-SEIU Homecare Worker Health Care Plan ("Health Care Plan"), whereby such programs are funded through capitation payments from the funding agency. CHP retains a portion of such capitation to offset its administrative costs to operate these programs. Such costs include payment to L.A. Care for administrative support services provided under Board-approved agreements described herein.

**2. Agency and Contact Person:**

L.A. Care Health Plan  
555 West Fifth Street, 29<sup>th</sup> Floor  
Los Angeles, CA 90013  
Attention: Howard Kahn, CEO  
Telephone: (213) 694-1250

**3. Term:**

The Administrative Support Services Agreement No. H-213337-1 extends the term on a month to month basis not to exceed twelve (12) months, which can be terminated upon ten (10) calendar days prior written notice, through June 30, 2004. The Medi-Cal Services Agreement No. H-207980-1 extends the term for CHP to purchase claims adjudication, utilization review, and member services through L.A. Care's temporary services subcontract on a month to month basis not to exceed twelve (12) months, which can be terminated upon ten (10) calendar days prior written notice, through June 30, 2004. Such amendments also provide termination of such services upon implementation of an outsourcing agreement with L.A. Care for all CHP product lines of business.

**4. Financial Information:**

Funding for the Health Care Plan is provided by the Personal Assistance Services Council ("PASC"), through Agreement No. 72426-2 between County and PASC (whereby the Department of Public Social Services is the payor of record for PASC) on a per member per month basis, at a capitated rate for each Health Care Plan beneficiary enrolled in CHP. The total estimated maximum County obligation for Agreement No. H-213337-1 is \$978,096, 100% offset by revenue retained by the CHP to offset its administrative costs from the capitation payments.

The costs for CHP's continued access to L.A. Care's professional temporary employees subcontract under Agreement No. H-207980-1 will be 100% offset by administrative overhead revenue retained by CHP from funding received from L.A. Care under such agreement. The estimated costs for this agreement is based on historical experience and projected to range from \$87,333 to \$133,333, due to uncertainties in workload requirements related to enrollment levels and staffing as the Department continues to work with outsourcing administrative functions with CHP.

**5. Geographic Area To Be Served:**

Countywide.

**6. Accountable for Monitoring:**

Office of Managed Care.

**7. Approvals:**

Office of Managed Care: Pauline Rodriguez, Acting Director

Contracts and Grants Division: Riley J. Austin, Acting Chief

County Counsel: Edward Morrissey, Deputy County Counsel

**EXHIBIT I**

Contract No. H-213337-1

PASC-SEIU HOMECARE WORKER HEALTH CARE PLAN ("HEALTH CARE PLAN")

ADMINISTRATIVE SUPPORT SERVICES AGREEMENT

AMENDMENT NO. 1

THIS AMENDMENT is made and entered into this \_\_\_\_\_ day  
of \_\_\_\_\_, 2003,

by and between

COUNTY OF LOS ANGELES  
(hereafter "County"),

and

L.A. CARE HEALTH PLAN  
(hereafter "Contractor").

WHEREAS, reference is made to that certain document entitled  
"PASC-SEIU Homecare Worker Health Care Plan ("Health Care Plan")  
- Administrative Support Services Agreement", dated January 8,  
2002, further identified as Agreement No. H-213337 (hereafter  
"Agreement"); and

WHEREAS, the parties wish to extend the term of the  
Agreement and provide for newly required County provisions; and

WHEREAS, Agreement provides that changes may be made in the  
form of a written amendment which is formally approved and  
executed by both parties.

NOW, THEREFORE, the parties agree as follows:

1. This Amendment shall become effective July 1, 2003 and  
shall continue on a month-to-month basis not to exceed twelve  
months through June 30, 2004, which may be terminated by either

party upon ten (10) calendar days prior written notice to the other party, unless terminated earlier pursuant to the provisions of this Agreement.

2. Agreement Paragraph 2, TERM OF AGREEMENT, shall be revised to read as follows:

"2. TERM OF AGREEMENT: This Agreement shall become effective on January 8, 2002 and shall remain in full force and effect to and including June 30, 2004, unless sooner canceled or terminated as provided herein.

3. Subparagraph G of Agreement Paragraph 3, SUSPENSION AND TERMINATION OF AGREEMENT, GENERAL, shall be added to read as follows:

"G. Termination Because of County Implementation of a Management Services Contract: County may terminate this Agreement upon implementation of the parties' execution of an administrative support services agreement for all CHP product lines, or upon termination of the Agreement, whichever occurs sooner.

4. Paragraph 42, COMPLIANCE WITH HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT OF 1996 shall be added to the Additional Provisions as follows:

"42. COMPLIANCE WITH HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT OF 1996: The parties acknowledge the existence of the Health Insurance Portability and

Accountability Act of 1996 and its implement regulations ("HIPAA"). Contractor understands and agrees that it is a "Business Associate" under HIPAA and, as such, has obligations with respect to the confidentiality, privacy and security of patients' protected health information, and must take certain steps to preserve the confidentiality of this information, both internally and externally, including the training of its staff and the establishment of proper procedures for the release of such information, and the use of appropriate consents and authorizations specified under HIPAA.

Additional information about the parties' responsibilities under HIPAA are set forth in Addendum "A-1."

The parties acknowledge their separate and independent obligations with respect to HIPAA, and that such obligations relate to transactions and code sets, privacy, and security. Contractor understands and agrees that it is separately and independently responsible for compliance with HIPAA in all these areas and that County has not undertaken any responsibility for compliance on Contractor's behalf. Contractor has not relied, and will not in any way rely, on County for legal advice or other representations with respect to Contractor's obligations under HIPAA, but will



independently seek its own counsel and take the necessary measures to comply with the law and its implementing regulations.

Contractor and County understand and agree that each is independently responsible for HIPAA compliance and agree to take all necessary and reasonable actions to comply with the requirements of the HIPAA law and implementing regulations related to transactions and code set, privacy, and security. Each party further agrees to indemnify and hold harmless the other party (including their officers, employees, and agents), for its failure to comply with HIPAA.

5. Paragraph 43, COMPLIANCE WITH THE COUNTY'S JURY SERVICE PROGRAM COMPLIANCE shall be added to the Additional Provisions as follows:

"43. COMPLIANCE WITH THE COUNTY'S JURY SERVICE PROGRAM:

This Agreement is subject to the provisions of the County's ordinance entitled Contractor Employee Jury Service ("Jury Service Program") as codified in sections 2.203.010 through 2.203.090 of the Los Angeles County Code.

A. Unless Contractor has demonstrated to the County's satisfaction either that Contractor is not a "Contractor" as defined under the Jury Service Program (section 2.203.020 of the County Code) or that Contractor qualifies for an exception to the Jury

Service Program (section 2.203.070 of the County Code), Contractor shall have and adhere to a written policy that provides that its Employees shall receive from the Contractor, on an annual basis, no less than five days of regular pay for actual jury service. The policy may provide that Employees deposit any fees received for such jury service with the Contractor or that the Contractor deduct from the Employee's regular pay the fees received for jury service.

B. For purposes of this subparagraph, "Contractor" means a person, partnership, corporation or other entity which has a contract with the County and has received or will receive an aggregate sum of \$50,000 or more in any 12-month period under one or more County contracts. "Employee" means any California resident who is a full-time employee of Contractor. "Full-time" means 40 hours or more worked per week, or a lesser number of hours if: (1) the lesser number is a recognized industry standard as determined by the County, or (2) Contractor has a long-standing practice that defines the lesser number of hours as full-time. Full-time employees providing short-term, temporary services of ninety (90) days or less within a 12-month period are not considered full-time for purposes of the

Jury Service Program.

C. If Contractor is not required to comply with the Jury Service Program when this Agreement commences, Contractor shall have a continuing obligation to review the applicability of its "exception status" from the Jury Service Program, and Contractor shall immediately notify County if Contractor at any time either comes within the Jury Service Program's definition of "Contractor" or if Contractor no longer qualifies for an exception to the Jury Service Program. In either event, Contractor shall immediately implement a written policy consistent with the Jury Service Program. The County may also require, at any time during this Agreement and at its sole discretion, that Contractor demonstrate to the County's satisfaction that Contractor either continues to remain outside of the Jury Service Program's definition of "Contractor" and/or that Contractor continues to qualify for an exception to the Program. Attached hereto and incorporated herein by reference is the required form, "County of Los Angeles Contractor Employee Jury Service Program Certification Form and Application for Exception", to be completed by the Contractor.

D. Contractor's violation of this subparagraph

of this Agreement may constitute a material breach of this Agreement. In the event of such material breach, County may, in its sole discretion, terminate this Agreement and/or bar Contractor from the award of future County contracts for a period of time consistent with the seriousness of the breach."

6. Paragraph 44, NOTICE TO EMPLOYEES REGARDING THE SAFELY SURRENDERED BABY LAW shall be added to the Additional Provisions as follows:

"44. NOTICE TO EMPLOYEES REGARDING THE SAFELY SURRENDERED BABY LAW: The Contractor shall notify and provide to its employees, and shall require each subcontractor to notify and provide to its employees, a fact sheet regarding the Safely Surrendered Baby Law, its implementation in Los Angeles County, and where and how to safely surrender a baby. Attached hereto and incorporated herein by reference is the fact sheet and is also available on the Internet at [www.babysafela.org](http://www.babysafela.org) for printing purposes."

7. Paragraph 45, CONTRACTOR'S ACKNOWLEDGMENT OF COUNTY'S COMMITMENT TO THE SAFELY SURRENDERED BABY LAW shall be added to the Additional Provisions as follows:

"45. CONTRACTOR'S ACKNOWLEDGMENT OF COUNTY'S COMMITMENT TO THE SAFELY SURRENDERED BABY LAW: The Contractor

acknowledges that the County places a high priority on the implementation of the Safely Surrendered Baby Law. The Contractor understands that it is the County's policy to encourage all County Contractors to voluntarily post the County's "Safely Surrendered Baby Law" poster in a prominent position at the Contractor's place of business. The Contractor will also encourage its Subcontractors, if any, to post this poster in a prominent position in the Subcontractor's place of business. The County's Department of Children and Family Services will supply the Contractor with the poster to be used."

8. Except for the changes set forth hereinabove, Agreement shall not be changed in any respect by this Amendment.

IN WITNESS WHEREOF, the Board of Supervisors of the County of Los Angeles has caused this Amendment to be subscribed by its

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Director of Health Services and Contractor has caused this  
Amendment to be subscribed in its behalf by its duly authorized  
officers, the day, month, and year first above written.

COUNTY OF LOS ANGELES

By \_\_\_\_\_  
Thomas L. Garthwaite, M.D.  
Director and Chief Medical Officer

\_\_\_\_\_  
Contractor

By \_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Title

(AFFIX CORPORATE SEAL)

APPROVED AS TO FORM  
BY THE OFFICE OF THE COUNTY COUNSEL  
LLOYD W. PELLMAN  
County Counsel

APPROVED AS TO CONTRACT  
ADMINISTRATION:

Department of Health Services

By \_\_\_\_\_  
Acting Chief, Contracts and  
Grants Division

AGREECD2381.PO  
05/20/03

**COUNTY OF LOS ANGELES CONTRACTOR EMPLOYEE JURY SERVICE PROGRAM  
APPLICATION FOR EXEMPTION AND CERTIFICATION FORM**

The County's solicitation for this contract/purchase order (Request for Proposal or Invitation for Bid) is subject to the County of Los Angeles Contractor Employee Jury Service Program (Program) (Los Angeles County Code, Chapter 2.203). All bidders or proposers, whether a contractor or subcontractor, must complete this form to either 1) request an exemption from the Program requirements or 2) certify compliance. Upon review of the submitted form, the County department will determine, in its sole discretion, whether the bidder or proposer is exempt from the Program.

Company Name:		
Company Address:		
City:	State:	Zip Code:
Telephone Number:	(       )	
Solicitation For ( Type of Goods or Services):		

**If you believe the Jury Service Program does not apply to your business, check the appropriate box in Part I (attach documentation to support your claim); or, complete Part II to certify compliance with the Program. Whether you complete Part I or Part II, please sign and date this form below.**

**Part I: Jury Service Program is Not Applicable to My Business**

1. My Business does not meet the definition of "contractor", as defined in the Program as it has not received an aggregate sum of \$50,000 or more in any 12-month period under one or more County contracts or subcontracts (this exemption is not available if the contract/purchase order itself will exceed \$50,000). I understand that the exemption will be lost and I must comply with the Program if my revenues from the County exceed an aggregate sum of \$50,000 in any 12-month period.
  
1. My business is a small business as defined in the Program. It 1) has ten or fewer employees; and, 2) has annual gross revenues in the preceding twelve months which, if added to the annual amount of this contract, are \$500,000 or less; and, 3) is not an affiliate or subsidiary of a business dominant in its field of operation, as defined below. I understand that the exemption will be lost and I must comply with the Program if the number of employees in my business and my gross annual revenues exceed the above limits.

**"Dominant in its field of operation"** means having more than ten employees, including full-time and part-time employees, and annual gross revenues in the preceding twelve months, which, if added to the annual amount of the contract awarded, exceed \$500,000.

**"Affiliate or subsidiary of a business dominant in its field of operation"** means a business which is at least 20 percent owned by a business dominant in its field of operation or by partners, officers, directors, majority stockholders, or their equivalent, of a business dominant in that field of operation.

1. My business is subject to a Collective Bargaining Agreement (attach agreement) that expressly provides that it supersedes all provisions of the Program.

**OR**

**Part II: Certification of Compliance**

2. My business has and adheres to a written policy that provides, on an annual basis, no less than five days of regular pay for actual jury service for full-time employees of the business who are also California residents, or my company will have and adhere to such a policy prior to award of the contract.

I declare under penalty of perjury under the laws of the State of California that the information stated above is true and correct.

Print Name:	Title:
Signature:	Date:

**BUSINESS ASSOCIATE  
PROTECTED HEALTH INFORMATION DISCLOSURE AGREEMENT**

L.A. CARE HEALTH PLAN, Business Associate

This Business Associate Protected Health Information Disclosure Agreement ("Agreement") is entered into effective this 1<sup>st</sup> day of July, 2003, by and between the County of Los Angeles ("Covered Entity"), and L.A. Care Health Plan ("Business Associate").

**RECITALS**

WHEREAS, the parties have executed an agreement whereby Business Associate provides services to Covered Entity, and Business Associate receives, has access to or creates Protected Health Information in order to provide those services ("Services Agreement");

WHEREAS, Covered Entity is subject to the Administrative Simplification requirements of the Health Insurance Portability and Accountability Act of 1996, and regulations promulgated thereunder, including the Standards for Privacy of Individually Identifiable Health Information at 45 Code of Federal Regulations Parts 160 and 164 ("Privacy Regulations");

WHEREAS, the Privacy Regulations require Covered Entity to enter into a contract with Business Associate in order to mandate certain protections for the privacy and security of Protected Health Information, and those Regulations prohibit the disclosure to or use of Protected Health Information by Business Associate if such a contract is not in place;

NOW, THEREFORE, in consideration of the foregoing, and for other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, the parties agree as follows:

**DEFINITIONS**

1.1 "Disclose" and "Disclosure" mean, with respect to Protected Health Information, the release, transfer, provision of access to, or divulging in any other manner of Protected Health Information outside Business Associate's internal operations or to other than its employees.



1.2 "Individual" means the person who is the subject of Protected Health Information and shall include a person who qualifies as a personal representative in accordance with 45 C.F.R. § 164.502(g).

1.3 "Protected Health Information" has the same meaning as the term "protected health information" in 45 C.F.R. § 164.501, limited to the information created or received by Business Associate from or on behalf of Covered Entity. Protected Health Information includes information that (i) relates to the past, present or future physical or mental health or condition of an Individual; the provision of health care to an Individual, or the past, present or future payment for the provision of health care to an Individual; (ii) identifies the Individual (or for which there is a reasonable basis for believing that the information can be used to identify the Individual); and (iii) is received by Business Associate from or on behalf of Covered Entity, or is created by Business Associate, or is made accessible to Business Associate by Covered Entity.

1.4 "Required By Law" means a mandate contained in law that compels an entity to make a Use or Disclosure of Protected Health Information and that is enforceable in a court of law. Required by law includes, but is not limited to, court orders and court-ordered warrants; subpoenas or summons issued by a court, grand jury, a governmental or tribal inspector general, or any administrative body authorized to require the production of information; a civil or an authorized investigative demand; Medicare conditions of participation with respect to health care providers participating in the program; and statutes or regulations that require the production of information, including statutes or regulations that require such information if payment is sought under government program providing benefits.

1.5 "Services" has the same meaning as in the Services Agreement.

1.6 "Use" or "Uses" mean, with respect to Protected Health Information, the sharing, employment, application, utilization, examination or analysis of such Information within Business Associate's internal operations.

1.7 Terms used, but not otherwise defined, in this Agreement shall have the same meaning as those terms in the Privacy Regulations.

## OBLIGATIONS OF BUSINESS ASSOCIATE

### 2.1 Permitted Uses and Disclosures of Protected Health Information. Business Associate:

(a) shall Use and Disclose Protected Health Information as necessary to perform the Services, and as provided in Sections 2.3, 2.4, 2.5, 2.6, 2.7, 2.8, 4.3 and 5.2 of this Agreement;

(b) shall Disclose Protected Health Information to Covered Entity upon request;

©) may, as necessary for the proper management and administration of its business or to carry out its legal responsibilities:

(I) Use Protected Health Information; and

(ii) Disclose Protected Health Information if the Disclosure is Required by Law.

Business Associate shall not Use or Disclose Protected Health Information for any other purpose.

2.2 Adequate Safeguards for Protected Health Information. Business Associate warrants that it shall implement and maintain appropriate safeguards to prevent the Use or Disclosure of Protected Health Information in any manner other than as permitted by this Agreement. Business Associate agrees to limit the Use and Disclosure of Protected Health Information to the minimum necessary in accordance with the Privacy Regulation's minimum necessary standard.

2.3 Reporting Non-Permitted Use or Disclosure. Business Associate shall report to Covered Entity each Use or Disclosure that is made by Business Associate, its employees, representatives, agents or subcontractors but is not specifically permitted by this Agreement. The initial report shall be made by telephone call to [the Departmental Privacy Officer], telephone number \_\_\_\_\_ within forty-eight (48) hours from the time the Business Associate becomes aware of the non-permitted Use or Disclosure, followed by a full written report to the Chief Information Privacy Officer, at [insert address] no later than ten (10) business days from the date the Business Associate becomes aware of the non-permitted Use or Disclosure.

2.4 Mitigation of Harmful Effect. Business Associate agrees to mitigate, to the extent practicable, any harmful effect that is

known to Business Associate of a Use or Disclosure of Protected Health Information by Business Associate in violation of the requirements of this Agreement.

2.5. Availability of Internal Practices, Books and Records to Government Agencies. Business Associate agrees to make its internal practices, books, and records relating to the Use and Disclosure of Protected Health Information available to the Secretary of the federal Department of Health and Human Services for purposes of determining Covered Entity's combined with the Privacy Regulations. Business Associate shall immediately notify Covered Entity of any requests made by the Secretary and provide Covered Entity with copies of any documents produced in response to such request.

2.6 Access to Protected Health Information. Business Associate shall, to the extent Covered Entity determines that any Protected Health Information constitutes a "designated record set" as defined by 45 C.F.R. § 164.501, make the Protected Health Information specified by Covered Entity available to the Individual(s) identified by Covered Entity as being entitled to access and copy that Protected Health Information. Business Associate shall provide such access for inspection of that Protected Health Information within two (2) business days after receipt of request from Covered Entity. Business Associate shall provide copies of that Protected Health Information within five (5) business days after receipt of request from Covered Entity.

2.7 Amendment of Protected Health Information. Business Associate shall, to the extent Covered Entity determines that any Protected Health Information constitutes a "designated record set" as defined by 45 C.F.R. § 164.501, make any amendments to Protected Health Information that are requested by Covered Entity. Business Associate shall make such amendment within ten (10) days after receipt of request from Covered Entity in order for Covered Entity to meet the requirements under 45 C.F.R. § 164.526.

2.6 Accounting of Disclosures. Upon Covered Entity's request, Business Associate shall provide to Covered Entity an accounting of each Disclosure of Protected Health Information made by Business Associate or its employees, agents, representatives or subcontractors.

*[Optional, to be used when all Uses and Disclosures permitted in order to perform the Services will be for the Covered Entity's payment or health care operations activities: However, Business Associate is not required to provide an accounting of Disclosures that are necessary to*

perform the Services because such Disclosures are for either payment or health care operations purposes, or both.]

Any accounting provided by Business Associate under this Section 2.8 shall include: (a) the date of the Disclosure; (b) the name, and address if known, of the entity or person who received the Protected Health Information; (c) a brief description of the Protected Health Information disclosed; and (d) a brief statement of the purpose of the Disclosure. For each Disclosure that could require an accounting under this Section 2.8, Business Associate shall document the information specified in (a) through (d), above, and shall securely maintain the information for six (6) years from the date of the Disclosure. Business Associate shall provide to Covered Entity, within ten (10) days after receipt of request from Covered Entity, information collected in accordance with this Section 2.8 to permit Covered Entity to respond to a request by an Individual for an accounting of disclosures of Protected Health Information in accordance with 45 C.F.R. § 164.528.

#### **OBLIGATION OF COVERED ENTITY**

3.1 Obligation of Covered Entity. Covered Entity shall notify Business Associate of any current or future restrictions or limitations on the use of Protected Health Information that would affect Business Associate's performance of the Services, and Business Associate shall thereafter restrict or limit its own uses and disclosures accordingly.

#### **TERM AND TERMINATION**

4.1 Term. The term of this Agreement shall be the same as the term of the Services Agreement. Business Associate's obligations under Sections 2.1 (as modified by Section 4.2), 2.3, 2.4, 2.5, 2.6, 2.7, 4.3 and 5.2 shall survive the termination or expiration of this Agreement.

4.2 Termination for Cause. In addition to and notwithstanding the termination provisions set forth in the Services Agreement, upon Covered Entity's knowledge of a material breach by Business Associate, Covered Entity shall either:

(a) Provide an opportunity for Business Associate to cure the breach or end the violation and terminate this Agreement if Business Associate does not cure the breach or end the violation within the time specified by Covered Entity;

(b) Immediately terminate this Agreement if Business Associate has breached a material term of this Agreement and cure is not possible; or

©) If neither termination nor cure are feasible, Covered Entity shall report the violation to the Secretary of the federal Department of Health and Human Services.

#### 4.3 Disposition of Protected Handling Protected Health Information Upon Termination.

(a) Except as provided in paragraph (b) of this section, upon termination for any reason or expiration of this Agreement and the Services Agreement, Business Associate shall return or destroy all Protected Health Information received from Covered Entity, or created or received by Business Associate on behalf of Covered Entity. This provision shall apply to Protected Health Information that is in the possession of subcontractors or agents of Business Associate. Business Associate shall retain no copies of the Protected Health Information.

(b) In the event that Business Associate determines that returning or destroying the Protected Health Information is infeasible, Business Associate shall provide to Covered Entity notification of the conditions that make infeasible. If return or destruction is infeasible, Business Associate shall extend the protections of this Agreement to such Protected Health Information and limit further Uses and Disclosures of such Protected Health Information to those purposes that make the return or destruction infeasible, for so long as Business Associate maintains such Protected Health Information.

### **MISCELLANEOUS**

5.1 No Third Party Beneficiaries. Nothing in this Agreement shall confer upon any person other than the parties and their respective successors or assigns, any rights, remedies, obligations, or liabilities whatsoever.

5.2 Use of Subcontractors and Agents. Business Associate shall require each of its agents and subcontractors that receive Protected Health Information from Business Associate, or create Protected Health Information for Business Associate, on behalf of Covered Entity, to execute a written agreement obligating the agent or subcontractor to comply with all the terms of this Agreement.

5.3 Relationship to Services Agreement Provisions. In the event that a provision of this Agreement is contrary to a provision of the Services Agreement, the provision of this Agreement shall control. Otherwise, this Agreement shall be construed under, and in accordance with, the terms of the Services Agreement.

5.4 Regulatory References. A reference in this Agreement to a section in the Privacy Regulations means the section as in effect or as amended.

5.5 Interpretation. Any ambiguity in this Agreement shall be resolved in favor of a meaning that permits Covered Entity to comply with the Privacy Regulations.

5.6 Amendment. The parties agree to take such action as is necessary to amend this Agreement from time to time as is necessary for Covered Entity to comply with the requirements of the Privacy Regulations.

**IN WITNESS WHEREOF**, the parties hereto have executed this Agreement effective as of the date stated above.

**Business Associate:**

**CLIENT:**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

By: \_\_\_\_\_ By: \_\_\_\_\_

Title: \_\_\_\_\_ Title: \_\_\_\_\_

Dated: \_\_\_\_\_ Dated: \_\_\_\_\_

# **No shame.**

# **No blame.**

# **No names.**

**Newborns can be safely given up  
at any Los Angeles County  
hospital emergency room or fire station.**



**In Los Angeles County:**

**1-877-BABY SAFE**

**1-877-222-9723**

**[www.babysafela.org](http://www.babysafela.org)**



**State of California**  
Gray Davis, Governor

**Health and Human Services Agency**  
Grantland Johnson, Secretary

**Department of Social Services**  
Rita Saenz, Director



**Los Angeles County Board of Supervisors**

Gloria Molina, Supervisor, First District

Yvonne Brathwaite Burke, Supervisor, Second District

Zev Yaroslavsky, Supervisor, Third District

Don Knabe, Supervisor, Fourth District

Michael D. Antonovich, Supervisor, Fifth District

This initiative is also supported by First 5 LA and INFO LINE of Los Angeles.

### **What is the Safely Surrendered Baby Law?**

California's Safely Surrendered Baby Law allows parents to give up their baby confidentially. As long as the baby has not been abused or neglected, parents may give up their newborn without fear of arrest or prosecution.

### **How does it work?**

A distressed parent who is unable or unwilling to care for a baby can legally, confidentially and safely give up a baby within three days of birth. The baby must be handed to an employee at a Los Angeles County emergency room or fire station. As long as the child shows no signs of abuse or neglect, no name or other information is required. In case the parent changes his or her mind at a later date and wants the baby back, workers will use bracelets to help connect them to each other. One bracelet will be placed on the baby, and a matching bracelet will be given to the parent.

### **What if a parent wants the baby back?**

Parents who change their minds can begin the process of reclaiming their newborns within 14 days. These parents should call the Los Angeles County Department of Children and Family Services at 1-800-540-4000.

### **Can only a parent bring in the baby?**

In most cases, a parent will bring in the baby. The law allows other people to bring in the baby if they have legal custody.

### **Does the parent have to call before bringing in the baby?**

No. A parent can bring in a baby anytime, 24 hours a day, 7 days a week so long as the parent gives the baby to someone who works at the hospital or fire station.

### **Does a parent have to tell anything to the people taking the baby?**

No. However, hospital personnel will ask the parent to fill out a questionnaire designed to gather important medical history information, which is very useful in caring for the child. Although encouraged, filling out the questionnaire is not required.

### **What happens to the baby?**

The baby will be examined and given medical treatment, if needed. Then the baby will be placed in a pre-adoptive home.

### **What happens to the parent?**

Once the parent(s) has safely turned over the baby, they are free to go.

### **Why is California doing this?**

The purpose of the Safely Surrendered Baby Law is to protect babies from being abandoned by their parents and potentially being hurt or killed. You may have heard tragic stories of babies left in dumpsters or public bathrooms. The parents who committed these acts may have been under severe emotional distress. The mothers may have hidden their pregnancies, fearful of what would happen if their families found out. Because they were afraid and had nowhere to turn for help, they abandoned their infants. Abandoning a baby puts the child in extreme danger. It is also illegal. Too often, it results in the baby's death. Because of the Safely Surrendered Baby Law, this tragedy doesn't ever have to happen in California again.

### **A baby's story**

At 8:30 a.m. on Thursday, July 25, 2002, a healthy newborn baby was brought to St. Bernardine Medical Center in San Bernardino under the provisions of the California Safely Surrendered Baby Law. As the law states, the baby's mother did not have to identify herself. When the baby was brought to the emergency room, he was examined by a pediatrician, who determined that the baby was healthy and doing fine. He was placed with a loving family while the adoption process was started.

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**Every baby deserves a chance for a healthy life. If someone you know is considering abandoning a newborn, let her know there are other options.**

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***It is best that women seek help to receive proper medical care and counseling while they are pregnant. But at the same time, we want to assure parents who choose not to keep their baby that they will not go to jail if they deliver their babies to safe hands in any Los Angeles County hospital ER or fire station.***



**Amendment No.1 to**  
**Services Agreement**  
**between**  
**Local Initiative Health Authority**  
**for Los Angeles County**  
**and**  
**Community Health Plan**

This Amendment is entered into as indicated herein by and between the Local Initiative Health Authority for Los Angeles County, a local governmental agency ("Local Initiative") and Community Health Plan, a California health care service plan ("Plan").

**RECITALS**

WHEREAS, the state of California ("State") has, through statute, regulation, and policies, adopted a plan ("State Plan") for certain categories of Medi-Cal recipients to be enrolled in managed care plans for the provision of specified Medi-Cal benefits. Pursuant to this State Plan, the State has contracted with two health care service plans in Los Angeles County. One of these two health care service plans is a health care service plan locally created and designated by the county's Board of Supervisors for, among other purposes, the preservation of traditional and safety net providers in the Medi-Cal managed care environment. The other health care service plan is an existing HMO which is selected by the State (the "Commercial Plan");

WHEREAS, the Local Initiative has been designated as Los Angeles County's locally created health care service plan by the Los Angeles County Board of Supervisors. It is a public entity, created pursuant to Welfare and Institutions Code Sections 14087.38(b) and 14087.9605 and Los Angeles County Resolution and Ordinance;

WHEREAS, the Local Initiative submitted an application to the State, containing the information and specifications set forth in a Detailed Design Application ("DDA");

WHEREAS, the Local Initiative is licensed by the Department of Managed Health Care as a health care service plan under the California Knox-Keene Act (Health and Safety Code Sections 1340 *et seq.*) (the "Knox-Keene Act");

WHEREAS, Plan is duly licensed as a prepaid full service health care service plan under the Knox-Keene Act and is qualified and experienced in providing and arranging for health care services for Medi-Cal beneficiaries; and

WHEREAS, Local Initiative and Plan have entered into a prior agreement dated January 1, 2003, as amended ( Agreement ), for Plan to provide and arrange for the provision of health care services for Local Initiative enrollees as part of a coordinated, culturally and linguistically sensitive health care delivery program in accordance with the requirements of the DDA, the Medi-Cal Agreement and all applicable federal and state laws.

NOW, THEREFORE, in consideration of the foregoing and the terms and conditions set forth herein, the parties agree to amend the Agreement as follows:

1. The following section shall be revised in Article III to read as follows:

ARTICLE III. -  
LOCAL INITIATIVE RESPONSIBILITIES

3.16 Temporary Services. Local Initiative shall provide Plan with access to Local Initiative's temporary services contract(s) to assist Plan in claims processing, member services functions, utilization review, MIS operations, and other functions as may be subsequently agreed to by the parties effective July 1, 2003, and shall continue on a month-to-month basis not to exceed twelve months through June 30, 2004, which may be terminated by either party upon ten (10) calendar days prior written notice to the other party. Local Initiative shall bill Plan for such services at cost. Local Initiative's obligation to provide such support hereunder shall expire upon full implementation of the parties' execution of an Administrative Support Services Agreement or upon termination of this Agreement, whichever occurs sooner.

All other non-conflicting rights and duties, obligations and liabilities of the parties to the Agreement shall remain unchanged.

IN WITNESS WHEREOF, the parties hereto have entered into this Amendment as of the date first set above.

Local Initiative Health Authority for Los Angeles County, a public entity

County of Los Angeles as operator of Community Health Plan, a California health care service plan

By: \_\_\_\_\_  
Howard A. Kahn  
Chief Executive Officer

By: \_\_\_\_\_  
Thomas L. Garthwaite, M.D.  
Director & Chief Medical Officer

Date: \_\_\_\_\_, 2003

Date: \_\_\_\_\_, 2003

**Approved as to Form by the  
Office of County Counsel**

By: \_\_\_\_\_  
Robert E. Tranquada, M.D.  
Chairperson  
L.A. Care Board of Governors

Name: Lloyd W. Pellman  
Title: County Counsel

Date: \_\_\_\_\_, 2003

**Approved as to Contracts Administration**

By: \_\_\_\_\_  
Contracts and Grants Division